

Application of)
KMC Telecom V, Inc)
for a Certificate of Local Authority)
to Provide Telecommunications) Docket No.
Services in the State of Illinois)

KMC TELECOM V, INC.

I.C.C. DOCKET NO. 00-0384
Petition Exhibit No. 1
 Witness Duke
 Date 8/2/200 Reporter _____

1 **Q. Please state your name, title and business address for the record.**

2 **A.** My name is Michael Duke. I am the Director of Regulatory Affairs for KMC Telecom
3 V, Inc. My business address is 3025 Breckinridge Boulevard, Suite 170, Duluth, Georgia
4 30096.

5 **Q. On whose behalf are you testifying in this proceeding?**

6 **A.** I am testifying on behalf of KMC Telecom V, Inc. (hereafter "KMC V").

7 **Q. What is the purpose of your testimony?**

8 **A.** The purpose of my testimony is to support the Application of KMC V for authority to
9 provide local telecommunications services in the State of Illinois.

10 **Q. Is KMC V authorized to do business in Illinois?**

11 **A.** Applicant has requested a Certificate to Transact Business from the Illionois Secretary of
12 State. A copy of the Certificate to Transact Business of KMC V will be filed as soon as it
13 is issued by the Secretary of State

14 **Q. Has the Applicant provided service under another name?**

15 **A.** No, it has not.

16 **Q. Please provide a brief description of the Applicant.**

17 **A.** KMC V is a start-up company formed on March 15, 2000 to take advantage of
18 opportunities for competitive entry into the local telecommunications market by
19 providing high-speed data services in Tier III Markets (population from 100,000 to
20 750,000). KMC V targets business, government and institutional end-users, as well as
21 Internet service providers, long distance carriers and wireless service providers. KMC
22 V is a wholly owned subsidiary of KMC Telecom Holdings, Inc.

- 1 **Q. Please describe the geographic areas of the State that KMC V proposes to serve.**
- 2 **A. KMC V seeks statewide authority to provide competitive local exchange services,**
3 **although it initially will provide service only in those Illinois exchanges where the**
4 **incumbent local exchange carrier is either Ameritech or GTE.**
- 5 **Q. Please describe the authority for which KMC V has applied.**
- 6 **A. KMC V seeks authority to operate as a competitive provider of local exchange**
7 **telecommunications services. Initially, KMC V proposes to offer high-capacity data**
8 **services, consisting primarily of port wholesale service. In the future, KMC V intends to**
9 **provide a full range of competitive local exchange services.**
- 10 **Q. Does KMC V hold Certificates of Authority in other jurisdictions?**
- 11 **A. No. KMC V is currently seeking authority to provide local exchange and**
12 **intrastate interexchange services in Alabama, Arizona, Arkansas, California,**
13 **Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana,**
14 **Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada,**
15 **New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma,**
16 **Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington D.C.,**
17 **West Virginia, and Wisconsin.**
- 18 **Q. Does KMC V intend to collect advance payments or deposits from its customers?**
- 19 **A. No. KMC V will not require advance payments or deposits from its customers.**
- 20 **Q. Does KMC V intend to provide its own operator services?**
- 21 **A. No. Should KMC V provide operator services, it expects to do so through an underlying**
22 **provider that is already certificated by the Commerce Commission.**
- 23 **Q. Does KMC V intend to provide 900 or 700 number services?**
- 24 **A. No, it does not.**

1 **Q. Is KMC V financially qualified to provide the services it proposes within Illinois?**

2 **A.** Yes. The Company's most recent financial documents, appended to its Application as
3 Exhibit F, demonstrate the Applicant's sound financial position and ability to compete
4 effectively in the market for competitive local exchange services in Illinois.

5 **Q. Is KMC V managerially qualified to provide the services it proposes within Illinois?**

6 **A.** Yes. Collectively, its technical staff has designed, managed, and/or operated advanced
7 communications facilities throughout the United States. Furthermore, Applicant's
8 management team includes individuals with substantial experience in successfully
9 developing, growing and operating telecommunications businesses. The Company's
10 management team has experience in various segments of the telecommunications
11 industry. Brief biographies of the management team were appended to KMC V's
12 Application as Exhibit E.

13 **Q. How will KMC V provide repair and maintenance services for its customers?**

14 **A.** KMC V will enter into contracts with the local service providers for the provision of
15 repair and maintenance services, in addition to having network maintenance relationships
16 with Lucent Technologies and other nationally recognized suppliers of
17 telecommunications equipment.

18 **Q. Is KMC V prepared to file tariffs and otherwise comply with the rules of the**
19 **Commission applicable to companies providing telecommunications services?**

20 **A.** Yes. KMC V will file its initial tariff after obtaining certification and prior to actually
21 providing service.

22 **Q. Will KMC V's rates for intrastate telecommunications services in Illinois be**
23 **competitive with other carriers providing similar services?**

1 **A.** Yes. KMC V's service offerings will be subject to direct competition from the major
2 incumbent local exchange carriers in the State, Ameritech and GTE, as well as
3 competitive carriers that have already entered the market. Therefore, KMC V must be
4 competitive in order to attract and retain customers. KMC V's rates in Illinois will be
5 comparable to those charged by other carriers for similar services.

6 **Q.** **Will KMC V's initial tariff contain all other material terms and conditions**
7 **applicable to its provisioning of local exchange services?**

8 **A.** Yes. All applicable terms will be set forth in KMC V's tariff. Moreover, since the
9 proposed services are subject to competition, market forces will operate to ensure
10 consistent, equitable treatment of customers. The terms and conditions of service must
11 be reasonable or consumers simply will not purchase services from KMC V.

12 **Q.** **How will KMC V handle billing matters?**

13 **A.** Services will be billed monthly by KMC V at the rates specified in its approved tariff.
14 Bills shall include a toll-free number for inquiries or complaints.

15 **Q.** **Please provide the name, address, telephone, and fax number of the person at your**
16 **company that will be responsible for working with the Commission's Consumer**
17 **Services Division for complaint resolution?**

18 **A.** The relevant person is Michael Duke, Director of Regulatory Affairs, KMC Telecom V,
19 Inc., 3025 Breckinridge Boulevard, Suite 170, Duluth, Georgia 30096, telephone(770)
20 931-5258, facsimile: (770) 638-6796.

21 **Q.** **How will KMC V handle customer service matters?**

22 **A.** KMC V will offer comprehensive Customer Service, providing support throughout the
23 relationship with each customer. Our customer service center will be staffed by fully
24 trained professionals who will be prepared to assist clients with any request. Should a

1 customer experiences a service impairing situation, they can dial our toll free number, 1-
2 888-KMC-THE1, for assistance. KMC V's Customer Service department will be
3 available 24 hours a day, seven days per week. Any Customer whose complaint cannot
4 be resolved by the Company will be informed that they may contact the Illinois
5 Commerce Commission to seek resolution.

6 **Q. How does KMC V intend to market its services?**

7 **A.** KMC V has not determined exactly how it will market its services, but anticipates that it
8 will use print and electronic media advertising.

9 **Q. Are you familiar with "slamming?"**

10 **A.** Yes.

11 **Q. What are the Company's policies with regard to slamming?**

12 **A.** KMC V will comply fully with all Illinois rules and guidelines regarding changes to
13 subscribers' preferred carriers as well as federal mandates addressing this practice. It
14 will be KMC V's policy and practice to receive complete and proper authorization and
15 send adequate written notice in connection with switching a customer to the Company's
16 service.

17 **Q. For each state in which KMC V currently provides service, indicate the number of**
18 **slamming complaints that have been filed with the Company or state regulatory**
19 **commissions for the period 1998-1999.**

20 **A.** KMC V is not yet providing service in any state. As such, no slamming complaints have
21 been filed with the Company or a state regulatory agency.

22 **Q. Have any complaints or judgements been levied against the Company?**

23 **A.** No.

1 **Q. How will KMC V comply with 83 Illinois Administrative Code Part 735.180,**
2 **regarding directories?**

3 **A. KMC V will enter contracts with the relevant incumbent local exchange carrier for the**
4 **provision of directory services, to the extent necessary.**

5 **Q. Is KMC V requesting relaxed regulatory treatment?**

6 **A. Yes. KMC V will be a non-dominant, competitive provider of local exchange**
7 **telecommunications services. KMC V, therefore, requests that the Commission regulate**
8 **it in the same relaxed fashion extended to other similarly situated carriers.**

9 **Q. Does KMC V agree to abide by the relevant 83 Illinois Administrative Code Parts**
10 **upon approval of its Application?**

11 **A. Yes, it does, to the extent those Parts apply to a provider of competitive local data**
12 **services. KMC V initially intends to provide such data services exclusively and will not**
13 **provide its customers with dial tone access. Should KMC V seek to expand its service**
14 **offering in the future to include any dial tone services, it hereby agrees to abide by all**
15 **applicable Illinois Code Parts and ICC rules and regulations regarding such services.**

16 **Q. How will KMC V handle 9-1-1 matters in particular?**

17 **A. As noted above, KMC V initially will not provide dialtone services. However, should**
18 **KMC V provide dialtone services in the future, it expects to rely upon the incumbent**
19 **local exchange carrier for 9-1-1 services, and will comply with all applicable**
20 **Commission rules regarding such services.**

21 **Q. Is KMC V requesting any waivers in its Application?**

22 **A. Yes. KMC V respectfully requests waiver of 83 Ill. Admin. Code Part 710, which**
23 **requires it to keep its books pursuant to Uniform System of Accounts ("USOA")**
24 **principles. Applicant currently maintains its books and records in accordance with**

1 Generally Accepted Accounting Principles ("GAAP"). No other jurisdiction requires
2 KMC V to keep its books in USOA. Therefore, without a waiver, KMC V would be
3 required to maintain two sets of books, an extremely onerous requirement, especially
4 since GAAP accurately reflects KMC V's operations. Because of the burdensome
5 requirements that would be imposed, and the lack of any useful information to be gained
6 for the Commission through the application of this requirement to KMC V, KMC V
7 hereby requests a waiver of the USOA requirements.

8 KMC V also seeks a variance under 83 Ill. Admin. Code 735.180 for the provision of
9 directories. Applicant will enter into a contractual agreement with incumbent providers
10 to fulfill all directory requirements.

11 Pursuant to 83 Ill. Admin. Code 250, KMC V also seeks a waiver of the requirement that
12 public utilities keep books, accounts, records and memoranda within the State of Illinois.
13 Since KMC V's main offices are in New Jersey, maintaining its books and accounts in
14 Illinois would be unduly burdensome. KMC V will, of course, have a registered agent
15 located within the state and understands that it will bear any costs associated with
16 Commission inspection of its books and records.

17 KMC V also seeks waiver of the following Parts as inapplicable to it because KMC V
18 will initially provide only competitive local data services. KMC V seeks waiver of :
19 720, regarding 911 Implementation Reports; 725, regarding Standards of Service
20 Applicable to 911 Emergency Systems; 755, regarding Telecommunications Access for
21 Persons with Disabilities; 756, regarding Telecommunications Relay Service; 757,
22 regarding Telephone Assistance Programs; and 770, regarding Operator Service
23 Providers. Waiver of these provisions is appropriate for KMC V because it initially
24 intends to provide data services exclusively and will not provide its customers with dial

1 tone access. Should KMC V seek to expand its service offering in the future to include
2 any dial tone services, it hereby agrees to abide by all applicable Illinois Code Parts and
3 ICC rules and regulations regarding such services, unless and until new waivers are
4 granted for such services.

5 **Q. Describe the status of KMC V's interconnection negotiations.**

6 **A.** KMC V has commenced interconnection negotiations with incumbent local exchange
7 carrier, Ameritech. KMC V has not yet reached an agreement with Ameritech, but will
8 file any Illinois interconnection agreement for approval by the Commerce Commission.

9 **Q. Briefly describe how approval of KMC V's Application is in the public interest.**

10 **A.** Approval of KMC V's application is in the public interest because it will increase
11 competition in the market for telecommunications services in the State of Illinois, leading
12 to downward pressure on prices and more innovative service offerings. In fact, KMC
13 V's proposed service offerings are based on the concept of bringing technologically
14 advanced services to a broad base of Illinois customers.

15 **Q. Do you have anything further to add?**

16 **A.** No, I do not.

17 **Q. Does this conclude your testimony at this time?**

18 **A.** Yes, it does.